

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CYMEYON HILL,

No. 2: 22-cv-1849 KJN P

Plaintiff,

v.

HER, et al.,

ORDER AND FINDINGS AND
RECOMMENDATIONS

Defendants.

Plaintiff is a civil detainee, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. For the reasons stated herein, the undersigned recommends that plaintiff's application to proceed in forma pauperis be denied.

In his verified application to proceed in forma pauperis, plaintiff alleges that he received no money over the last twelve months from various sources including gifts and other sources. (ECF No. 2 at 1.) Plaintiff alleges that he has no cash. (Id.)

Plaintiff's trust account statement, filed October 17, 2022, indicates that as of September 20, 2022, plaintiff had \$5,221.90 in his prison trust account. (ECF No. 3 at 1.)

In evaluating plaintiff's in forma pauperis application, the court looks to whether plaintiff has submitted an affidavit that shows he "is unable to pay [the filing fee] or give security therefore." 28 U.S.C. § 1915(a)(1). Plaintiff's prison trust account statement indicates that plaintiff is able to pay the filing fee of \$402.

1 On November 1, 2022, the undersigned granted plaintiff twenty-one days to show cause
2 why his application to proceed in forma pauperis should not be denied and plaintiff ordered to
3 pay the filing fee. (ECF No. 7.) On December 5, 2022, plaintiff filed a response to the
4 November 1, 2022 order. (ECF No. 8.) Plaintiff's December 5, 2022 pleading does not
5 demonstrate that plaintiff's application to proceed in forma pauperis should not be denied.

6 For the reasons discussed above, the undersigned recommends that plaintiff's application
7 to proceed in forma pauperis be denied.

8 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall appoint a
9 district judge to this action; and

10 IT IS HEREBY RECOMMENDED that plaintiff's application to proceed in forma
11 pauperis (ECF No. 2) be denied; and plaintiff be ordered to pay the \$402 filing fee within thirty
12 days of the adoption of these findings and recommendations.

13 These findings and recommendations are submitted to the United States District Judge
14 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
15 after being served with these findings and recommendations, plaintiff may file written objections
16 with the court and serve a copy on all parties. Such a document should be captioned
17 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that
18 failure to file objections within the specified time may waive the right to appeal the District
19 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 | Dated: December 8, 2022

Kendall J. Newman
KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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